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The Solicitors' Journal

VOL. LXXVI. **Saturday, September 24, 1932.** No. 39

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Current Topics.

Sir Walter Scott as a Judge.

In view of the hundredth anniversary this week of the death of Sir Walter Scott, the lay press has been recalling the great achievements in the realms of poetry and romance accomplished by the wizard of the North. No doubt the works thus remembered constitute the chief claim to the universal tribute being paid to the memory of Sir Walter, but the legal journals cannot forget that not only in literature but also in law did Scott spend a great part of his untiring energy. For thirty-three years—from 1799 to 1832—he filled the office of Sheriff of Selkirkshire, and although the duties were not unduly onerous he brought to their discharge that conscientiousness that was the distinguishing mark in all that to which he put his hand. English readers are apt to conclude that by the term "sheriff" is meant a person fulfilling almost entirely administrative functions as does the English sheriff; but in Scotland the term denotes an official whose main function is judicial; in fact, the Scottish sheriff corresponds to our County Court Judge, with this difference, that he has a somewhat more extensive civil jurisdiction, and also, in addition, jurisdiction in criminal matters. Of Sir Walter's work as Sheriff we have an extremely interesting record which was prepared some years ago by one of his successors in the sheriffdom of Selkirkshire—the late Mr. John Chisholm, K.C.—and a singularly curious and varied class of local litigation it reveals. Sometimes the pettiness of the disputes moved him to a vigorous protest in the pages of his journal, as where he wrote: "Wretched wranglings about a few pounds, begun in spleen, and carried on from obstinacy, and at length, from fear of the conclusion to the banquet of ill-humour, 'D-n-n of expenses.' I try to check it all as well as I can; but so 'twill be when I am gone." In one interesting case in which the Incorporation of Tailors presented a petition in respect of damage done to their banner in a conflict which took place when it was displayed in the annual common riding of the Selkirk boundaries, Scott disposed of the claim in this very practical fashion: "The sheriff having advised this petition, and having inspected the banner in question, finds that the same is capable of repair, and out of respect to the craft has caused the same to be repaired in his own family. Therefore refuses the petition and prohibits further procedure. Finds no expenses [costs] due." The banner in question, repaired by Lady Scott or her daughters, is still preserved, an interesting memento of an old dispute and of the paternal interest shown by the sheriff in the adjuncts of a local festival.

A Public Attraction as a Public Nuisance.

While no one can be sorry that the unseemly spectacle of a beneficed clergyman of the Church of England exhibiting himself or allowing himself to be exhibited in a barrel has been discontinued, there may be two opinions as to the method by which this object has been achieved. The showman who arranged for the exhibition was charged with causing an obstruction to the highway, and the clergyman with aiding and abetting. The police were prepared to call evidence that a large crowd had gathered in the public road, causing a hindrance to free passage and repassage along it. In effect, their case would have followed the well-known authorities as to queues, such as *Barber* v. *Penley* [1893] 2 Ch. 447, and *Lyons* v. *Gulliver* [1914] 1 Ch. 631, in the evidence of the crowd and obstruction. In each of these cases injunctions were granted to the plaintiffs on the ground that the concourse of people who assembled interfered with the free passage of customers to their premises and was thus an actionable nuisance as an infringement of their private rights. The cases of *R.* v. *Carlile* (1834), 6 C. & P. 636, and *R.* v. *Lewis* (1881), 71 L.T. n. 117, were prosecutions in respect of the public nuisance caused by crowds similarly attracted. In *R.* v. *Carlile* there was argument that the exhibition was offensive—considering that it consisted of the effigy in a shop-window of a Bishop arm-in-arm with the Devil the suggestion was not without substance—but that in *R.* v. *Lewis* was admittedly innocuous, save for the crowds it drew. In a note on a similar case in respect of Gamage's then new premises at the Marble Arch (74 Sol. J. 823), we drew attention to the dissenting judgment of Phillimore, L.J., in *Lyons* v. *Gulliver*, to the effect that every tradesman or entrepreneur was entitled to attract the public to his premises, and should not be penalised if he did so more successfully than his fellows, the regulation of crowds in streets being part of the normal duty of the police force. There appears to be plenty to be said for this view, but it could only be established, if at all, by the House of Lords disapproving of *Lyons* v. *Gulliver* and the other cases.

Coming Reform of the Ecclesiastical Courts.

Judging by the number of letters appearing recently in *The Times*, mainly written by distinguished ecclesiastics, there is little doubt that the Church Assembly when it meets in November will have to face a demand for the production of the report on its own Commission on the Ecclesiastical Courts which has remained pigeon-holed at the Church House since 1926. Churchmen of all shades of opinion are coming to recognise the urgent necessity for a complete overhaul of

the machinery of the Church's Courts. Indignation over the public scandal created by the *Stiffkey Case*, followed by excitement over the extraordinary proceedings at Marazion, in Cornwall, seem to have been the determining causes which are likely to compel reform of procedure generally. According to the BISHOP OF CHICHESTER, the real difficulty will be to agree upon a satisfactory Final Court of Appeal. At present, appeal lies from the Consistory Court to the Arches Court and thence to the Privy Council; but there would appear to be a widespread objection to the jurisdiction of the Privy Council which was substituted for that of the old Court of Delegates in 1833. This objection, which has gained increasing strength since the judgment in *Gorham* v. *Bishop of Exeter* (1850), Moore's Sp. Rep. 462, is founded on the contention that the right of declaring the doctrine and use of the Church belongs to the authorities of the Church itself and not to a State tribunal.

Assaulted Railwayman's Claim for Damages.

A SOMEWHAT awkward sequel to the provisions of the Offences Against the Person Act, 1861, is disclosed by *The Times* labour correspondent, in the issue of that paper for 27th August. The Act provides in substance that where a person has been fined or imprisoned for an assault "he shall be released from all further or other Proceedings, Civil or Criminal, for the same Cause," s. 45. The London Midland and Scottish Railway prosecuted to conviction one who had assaulted a ticket collector. The latter, who was incapacitated for work, subsequently sought to obtain damages, but the claim was abandoned in view of the provisions of the foregoing Act. The company made an *ex gratia* payment to the injured man, who also received sickness benefit. In the result the National Union of Railwaymen has received assurances from the majority of the railway companies that in future cases, where the assaulted party is incapacitated, they will defer instituting police-court proceedings to give the injured man an opportunity to claim damages. It is intimated that on the London and North Eastern Railway and the Cheshire Lines the policy to be adopted in cases of this nature will depend upon the circumstances.

Obstructing the Police by Warning Offenders.

IN A short report of a case at the Marylebone Police Court, it appeared that a costermonger who warned a street bookmaker that a policeman was approaching was fined £5 for obstructing the officer, the bookmaker having, on the signal, escaped into a private house. The question whether the warning of offenders against the law of the approach of a constable is a wilful obstruction of the latter in the course of his duty within the Prevention of Crimes Amendment Act, 1885, has been considered in two cases as to police "traps" for motorists, namely, *Bastable* v. *Little* [1907] 1 K.B. 59, and *Betts* v. *Stevens* [1920] 1 K.B. 1. In *Bastable* v. *Little*, the respondent warned the drivers of approaching cars against the trap, which they accordingly all passed at speeds strictly within legal limit. In the absence of evidence that the drivers of the cars when or before being warned were going too fast, however, they were acquitted. RIDLEY, J., was of opinion that obstruction within the section must be in the nature of physical force or threats, but ALVERSTONE, L.C.J., and DARLING, J., did not agree with him. In *Betts* v. *Stevens* the facts were very similar, but, no doubt, in view of the previous case, the police adduced evidence that some of the warned drivers had been travelling at illegal speed, and the court, consisting of ALVERSTONE, L.C.J., DARLING, J., and BUCKNILL, J., upheld the conviction of the magistrates. In *Bastable* v. *Little*, DARLING, J., said: "In my opinion it is quite easy to distinguish the cases where a warning is given with the object of preventing the commission of a crime from the cases in which the crime is being committed, and the warning is given in order that the commission of the crime may be suspended while there is danger of detection." He quoted this passage in his judgment in *Betts* v. *Stevens*, observing that the gist of the offence was the intention. The case at Marylebone no doubt then followed this ruling. The report being very short, it is not clear whether the defendant was in the bookmaker's pay as a "sentinel," or a mere volunteer, but, for the offence charged, the distinction would appear to be immaterial. The warning given was not the kind which, for example, might be volunteered by an elderly gentleman to youths playing pitch and toss in the streets, that they should desist from an illegal pastime, lest a constable should come, but merely to suspend the commission of the offence until the danger of the law was past. It is not without significance, however, that all three of the above cases concerned obstruction of constables in the enforcement of laws deemed unreasonable by a large section of the public and continually flouted.

Ownership of Money in Gas Meter.

THE MANCHESTER magistrates recently dismissed a charge of theft, the subject-matter of which was coins which the defendant was alleged to have abstracted from the gas meter in his house. The newspaper report says that officials from the corporation gas department, having "admitted" that the accused had signed an undertaking to be responsible for the meter and anything put into it, found themselves unable to deal with a poser put by the clerk: "Then how can you allege that he has stolen the money?" With all due respect to both parties, we cannot help feeling that, if proved, this would have been a case of larceny by a bailee, and an instance of the only kind of case in which that offence can be committed with regard to money, the duty being to deliver the specific coins: see *R.* v. *Hassall* (1861), Le. & Ca. 58. For the undertaking does not affect the question of ownership, and it has in fact been held that when "slot" meters are used payment is effected when the coin is inserted, and that the consumer is not liable for any subsequent theft for which he is not to blame: *Edmundson* v. *Longton Corporation* (1902), 19 T.L.R.15.

Van Rossum and the *Codex Juris Canonici*.

THE DEATH of Cardinal WILLIAM VAN ROSSUM, Prefect of the Sacred Congregation of Propaganda, at Maastricht, while on a visit to Holland, his native country, may fittingly be noted in a journal devoted to law. For the late Cardinal was intimately concerned in one of the most remarkable codifications of law in modern times. In 1904 Pope PIUS X decided to codify the canon law of the Roman Catholic Church. Of the multitude of ecclesiastical laws which had existed for many centuries, some had been abrogated or fallen into desuetude, others were difficult to enforce or of little use, and much confusion and uncertainty concerning the more difficult points prevailed. The work was carried out under Cardinal GASPARRI, and a commission of five Cardinals was appointed to examine, modify and correct the proposed canons. All the members of the commission died while the work was in progress, and the vacancies were filled by VAN ROSSUM and four other members of the Sacred College. The fruit of their labours was the new Code of Canon Law which reduced the mass of former enactments to 2,414 canons numerically arranged and divided by subject matter into five books. The whole code is printed in one volume not larger than a volume of the current *Law Reports*. Copies of the new code were sent to bishops and others concerned for the free expression of views, and the work was ratified by BENEDICT XV as announced by the Bull "*Providentissima Mater Ecclesia*" (27th May, 1917) which decreed that the Code should have the force of law from Pentecost (19th May), 1918.

Carriage by Air.

THE EFFECT OF THE ACT OF 1932.

COMMERCIAL flying has been making very rapid strides all over the world during the last three or four years, and the appearance on the statute-book of the Carriage by Air Act, 1932, marks an important stage in the development of aviation law.

The need for an international code of regulations applicable to the carriage of persons, luggage and goods was recognised several years ago; and at a conference held at Warsaw in 1929 a set of regulations was drawn up and signed in the form of a convention to which Great Britain and Northern Ireland, the Commonwealth of Australia and the Union of South Africa subscribed, in addition to some twenty other nations, all European (including Soviet Russia) except Brazil and Japan.

The Carriage by Air Act, 1932 (22 & 23 Geo. 5, Ch. 36), has two objects in view. In the first place it provides for giving effect to the convention internationally; in the second place it provides for the application of its provisions, subject to exceptions, adaptations and modifications, to air service within the United Kingdom, the Isle of Man, the Channel Islands, and the Colonies and Protectorates. It is not certain upon what date the convention will be fully in force; it requires to be ratified, and Art. 37 provides that as soon as it has been ratified by five of the subscribing nations (the "High Contracting Parties") it is to come into force between *them* on the ninetieth day after the deposit of the fifth ratification. As to the remainder it is to come into force similarly between those who have already ratified and each successive depositor on the ninetieth day after deposit. As far as the United Kingdom is concerned, an Order in Council will in due course certify a day on which the convention will come into force, and *as from that day* the provisions of the convention will, so far as they relate to the rights and liabilities of carriers, passengers, consignors, consignees and other persons (and subject to what follows) have the force of law in the United Kingdom irrespective of the nationality of the aircraft concerned (s. 1 (1)). The provisions of the convention appear in the First Schedule.

What follows is that an Order in Council certifying who are the High Contracting Parties and what their territories include and how (if at all) they limit their accession, is to be conclusive evidence of these matters (s. 1 (2)): that any reference in the First Schedule to the territory of any High Contracting Party is to be construed as referring to all territories under its authority (s. 1 (3)); that any sum named in francs to be paid as damages (Art. 22) is to be converted into sterling at the rate current on the date of award (s. 1 (5)); and, most important of all (s. 1 (4)) the liability imposed (Art. 17) on a carrier in respect of the death of a passenger is to be in substitution for any liability therefor imposed on the carrier either by statute or common law.

This matter of the liability of the carrier by air, both for injury to, and death of, a passenger, and his liability for damage to goods and otherwise, forms the subject-matter of Chap. III of the convention (Arts. 17 to 30). It will be convenient to notice, first of all, the provisions affecting human life and safety. Article 17 reads thus:—

> "The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking."

It would appear that to escape this liability—or rather its consequences—the carrier must bring himself within one of two other provisions. Article 20 (cl. 1) says that the carrier "is not to be liable if he proves that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures." Then by Art. 21 it is laid down that, if damage was caused by or contributed to by the negligence of the injured person, the court may "in accordance with the provisions of its own law" exonerate the carrier wholly or partly from his liability.

It is not difficult to foresee in the above some opportunity for judicial interpretation; but speculation upon that is hardly within the scope of this present article. It may, however, be observed that between Art. 17 quoted above, which refers to personal injury, and Art. 20 limiting liability, there stand Art. 18, which deals with damage to luggage and goods, and Art. 19, which says that the carrier is liable for damage occasioned by *delay* in the carriage of *passengers'* luggage or goods. Then follows the provision cited above from Art. 20 (1), which presumably covers all that precedes it, though it does not specify what the expression "the damage" includes. This clause, however, is supplemented by another clause (2), in the following terms:—

> "(2) In the carriage *of goods and luggage* the carrier is not liable if he proves that the damage was occasioned *by negligent pilotage or negligence in the handling of the aircraft or in navigation . . .*"

A distinction would thus appear to be drawn between clauses (1) and (2) by the comprehensive reference to "the damage" in the former, and the "goods and luggage" limitation in the latter; and it seems to follow that liability for the death of or for injury to a passenger cannot be avoided by proof that it was due to negligent pilotage, etc., but only by proof of contributory negligence on the part of the injured person, or, alternatively, by the proof (whatever that may be held to demand) under clause (1).

A further provision relating to liability for injury to passengers is to be found in Article 22 (1), which were best quoted in full:—

> "(1) In the carriage of passengers the liability of the carrier for each passenger is limited to the sum of 125,000 French francs. Where, in accordance with the law of the Court seised of the case, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed 125,000 francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability."

As regards registered luggage and goods, the carrier's liability is limited to a sum of 250 francs per kilo. unless the consignor has made a special declaration of value and has paid a higher rate if required. In such case liability extends to the full value. Where a passenger has charge himself of luggage or goods the carrier's liability is limited to 5,000 francs per passenger (Art. 22 (2) and (3)).

The carrier is not entitled to avail himself of the provisions of the Convention excluding or limiting his liability if the damage is due to his own or his agent's wilful misconduct or default which is equivalent to wilful misconduct (Art. 25). This would appear to place the carrier-by-air on the same footing as regards special contracts as the carrier-by-rail.

Actions to recover damages must be brought within two years of the date of arrival at destination or of due arrival or of actual stoppage (such date to be determined by the law of the court seised of the case) (Art. 29). The action is to be brought in the court having jurisdiction where the carrier resides or has his principal place of business or where the contract was made, or at the place of destination (Art. 28).

Where carriage is to be performed by successive carriers, each is to be deemed to be one of the parties to the contract in so far as concerns that part to be performed under his supervision. In such case, however, action by passengers may only be taken against the carrier in charge when the accident or delay occurred unless by express agreement the first carrier has assumed liability for the whole journey. Action in respect of luggage or goods may be brought by passenger or consignor against the first carrier; by passenger or consignee against the

last carrier; and by each against the carrier concerned at the time the damage or delay took place. All the carriers concerned are to be jointly and severally liable to passenger, consignor or consignee, as the case may be (Art. 30).

The Second Schedule to the Act is of special importance as it relates to the persons by and for whose benefit the liability imposed with regard to the death of a passenger may be enforced. The liability is to be enforced for the benefit of "such of the members of the passenger's family as sustained damage by reason of his death." The "members" of the family include wife or husband, parent, step-parent, grandparent, brother, sister, half-brother, half-sister, child, step-child, grandchild and, in deducing any such relationship, an illegitimate or adopted person is to be treated as being the legitimate child of his mother and reputed father (or of his adopters). The amount recovered is to be divided between the persons entitled in such proportions as the court (or jury, if there be one) direct. Action may be brought by any one of the persons entitled to benefit, or by the deceased passenger's personal representative. Only one such action may be brought in the United Kingdom, and such action, by whomsoever brought, is to be for the benefit of all such persons as either are domiciled here, or express a desire to benefit; and the court may, at any stage of the proceedings, make any suitable order limiting the liability of the carrier having regard to any proceedings which have been or are likely to be commenced outside the United Kingdom in respect of the death of the passenger in question.

Such is a brief outline of the principal provisions of this, the first English statute dealing with the rights and liabilities of carriers by air in respect of passengers, luggage and goods. That it will be the forerunner of other statutes is quite certain. Equally certain is it that before many more years have passed we shall have a substantial code of law governing transport by air, contrasting not unfavourably with the existing codes relating to transport by railways and steamship.

The St. Hilary Faculty Case.

[CONTRIBUTED.]

THE recent proceedings at the Church of St. Hilary, Marazion, where the petitioners, assisted by a number of sympathisers, proceeded to execute the judgment of the Chancellor of the Diocese of Truro, make it clear that if such scenes are not to be repeated, the procedure of the Consistory Courts must be amended, and the whole system reformed. It will be remembered that the Chancellor, on the petition of one of the parishioners, which the vicar of the parish did not defend or take any notice of, ordered a faculty to issue for the removal of certain ornaments which had been placed in the church without any faculty, and some, at any rate, of which were probably not covered by the Ornaments Rubric, as being such as were usual and lawful ornaments in the second year of KING EDWARD VI. The vicar still took no notice, and the petitioners then proceeded to execute the order, doing a certain amount of damage, and exceeding their powers by removing articles which were not mentioned in the faculty, but which they appear to have thought indistinguishable from those referred to. The Chancellor is reported to have said that the petitioners, in acting as they did, were within their rights if they kept within the terms of the faculty.

Assuming that the Chancellor's order was right and that the ornaments were not lawful and ought to be removed, the first thing that strikes one is that the Consistory Court is the only court in this country which apparently possesses no officer to enforce its decrees. No other court allows parties to take the execution of the law into their own hands.

All writs of execution in the High Court, except writs of sequestration, are directed to the sheriff and carried into effect by his appointed officers or bailiffs. In the county court the bailiff is the chief officer and employs deputies. These officers find their process hedged about by very strict rules, which if they exceed in any way, they become trespassers. Any execution is irregular where it is levied by an unauthorised officer, and irregular executions will be set aside: *Rhodes* v. *Hall*, 26 L.J. Ex. 265. If the parties themselves were allowed to execute the orders of the courts, not only would wrongful and irregular executions be frequent, but there would be a serious risk of a breach of the peace, such as was only narrowly averted at St. Hilary by the petitioners detaining the vicar and bellringer in the church, and preventing them from communicating with parishioners outside.

Secondly, the Chancellor, whose duty it is to declare and administer the law, was placed in great difficulty by the refusal of Mr. WALKE to appear and defend the proceedings. He, like other clergy before him, from the time of BENNETT, of Frome, refuses to acknowledge the Consistory Court, not because of any defect in the court itself, which dates back to WILLIAM I, but because it is bound in matters of law by the decisions of the Judicial Committee of the Privy Council, imposed by statute upon the Church and regarded by a very large number of conscientious clergy and laity, including many who would not otherwise sympathise with Mr. WALKE, as being an intolerable invasion of their spiritual rights.

Be that as it may, the record of the Judicial Committee in ecclesiastical cases back in the last century is scarcely one to inspire confidence in its decisions. *The Church Union Gazette* recently gave a list of twelve points, taken from an article in *The Quarterly Review* of 1899, in which the Judicial Committee has contradicted its own decisions. Twice, for example, the Judicial Committee has declared that the Ornaments Rubric means what it says, and that the ornaments used in 1549 are lawful—a proposition that nobody doubts to-day—and twice has it come to an exactly opposite conclusion. *Ridsdale* v. *Clifton* (1877), 2 P.D. 276, a decision on several points, mostly since over-ruled, or reversed on fuller historical knowledge. The catalogue of these contradictory decisions need not be set out, but incidentally it may be mentioned that it has been decided that while it is quite lawful to use lights on the Holy Table, it is unlawful to light them, this constituting an additional "ceremony"! Further, it is clear that the rubric leaves room for development consistent with the original tradition, otherwise organs, which were rare in parish churches in 1549, and surpliced choirs, which were unknown outside cathedrals and collegiate churches, would be unlawful, which no one suggests for a moment. To-day we may trust the Privy Council to decide, without the least prejudice, questions such as the privileges appertaining to Indian shrines and temples. The trouble is that its jurisdiction is scarcely ever now evoked in ecclesiastical matters, and though it is not bound by its previous decisions, it is given no opportunity of reconsidering them. If it were, several of them would probably never be heard of again.

The objection to the jurisdiction in church matters of the Privy Council is a little difficult to reconcile with history, for in 1532 when appeals to Rome were abolished, it was provided (re-enacting the Constitution of Clarendon of 1164) that for lack of justice in the Archbishop's Court the parties might appeal to the King in his Court of Chancery, and this jurisdiction was exercised down to 1833 by the Court of Delegates, except perhaps for a period in which the Court of High Commission had jurisdiction. Dr. FRERE himself, not as Bishop of Truro but as a trustee patron, invoked the aid of the civil court in *Notley* v. *Bishop of Birmingham* [1931] 1 Ch. 529, when the defendant refused to appear.

The troubles at St. Hilary are an extreme instance of the effects of the breakdown of the Act of Uniformity of 1559, which is not strictly observed anywhere, and the observance of which is practically impossible. They are also the result of

the refusal of Parliament to give its approval to the Revised Prayer Book in 1928. That refusal was brought about partly by the fact that the book was opposed by extremists on both sides, but mainly because it proposed to legalise certain things, and particularly reservation of the sacrament, which were assumed and believed to be unlawful. The legality of reservation has never been argued in a Court of Law—we have only the opinion of two Archbishops—but if the question was properly raised and argued it might very well turn out to be perfectly lawful; at any rate, there are good grounds for so thinking. This and other doubtful points of church law, in regard, at any rate, to the ornaments of the church and the ceremonial of the services, might very well be raised in a friendly proceeding, say, in the matter of a charitable trust in a particular parish. The ultimate tribunal, of course, would not be the Privy Council, but the House of Lords. That was the course followed by the Roman Catholics in *Bourne* v. *Keane* [1919] A.C. 815, when they took the question of "superstitious uses" prohibiting masses for the dead, to the House of Lords, which under the lead of Lord BIRKENHEAD swept away the whole common law doctrine on the subject, based largely on a statement in an early text-book ("Duke on Charitable Uses") but confirmed and approved in numerous cases of which *West* v. *Shuttleworth*, 2 My. & K. 684, is the best known.

The law on these matters should not be allowed to get into doubt and disrepute. A decision by so competent and unprejudiced a tribunal as the House of Lords would command respect, would clear the air, and substitute ordered liberty for confusion and anarchy.

Premiums on Leases.

THE position arising from the granting of leases at a yearly rental plus a premium is well worth a few moments consideration.

As is well known, it was decided in the case of *Abbott* v. *Davies*, 6 A.T.C. 296, that where property is let for a term of years at a premium and a reserved rent, the amount of the premium must be taken into account in determining the annual value of the property for income tax purposes.

Thus, if the property is leased for a term of, say, fourteen years at a premium of £1,400 and a rental of £100 per annum, the tenant executing repairs, then the annual value will be ascertained as follows:—

Annual rent	£100
Premium—one-fourteenth of £1,400	100
Interest on £1,400 for one year at, say, 5 per cent.	60
Net annual value	£260

This is the sum on which tax under Sched. A will be charged.

Rule 1 of No. VII, Sched. A, Income Tax Act, 1918, provides that the tax under that schedule shall be charged on and paid by the occupier, whilst r. 2 of the same number defines the occupier as the person having the use of the property for the time being. In other words, the tax will be chargeable on the tenant.

Rule 1 of No. VIII, Sched. A, provides that a tenant occupier shall be entitled to recoup himself for the tax paid by deducting the amount thereof from the next instalment of rent. The rule states that the tenant occupier "shall be entitled to deduct and retain in respect of the rent payable to the landlord for the time being" an amount representing tax on such rent, and it may be inferred from this that the amount of tax deductible by the tenant is limited by the rent payable. This limitation is not stated in definite terms, but it may be inferred from the words quoted above and effect is always given to it in practice.

In the example mentioned above then, the tenant will pay tax on a net annual value of £260, but the tax which he may deduct from the rent will be limited to tax on £100, "the amount of rent payable to the landlord for the time being." The balance of tax, namely, on £160, he will have to bear himself, and, moreover, under the decision in the case of *C.I.R.* v. *Fargus*, 10 T.C. 665, he must regard this sum of £160 as part of his total income for all purposes, including the computation of his total income for sur-tax purposes.

The position is not so serious where the tenant is a trader and uses the premises for the purpose of his business, for in that case he is entitled to deduct the amount of the annual value from his business profits in accordance with r. 5 of the rules applicable to Cases I and II, Sched. D. Thus, he will be able to recoup himself for the tax which he pays on the excess of the annual value over the rent by setting the amount of such excess off against his business profits. This relief is not available to any other person, however, who has no business profits against which he is entitled to set the excess.

The premium which the landlord receives is regarded as capital in his hands and is not, therefore, taxable. Apart from this there would be no justification for treating it as taxable income in the landlord's hands in the year in which it is received, for if the amount of the premium is to be taken into account in computing the annual value of the property under Sched. A, in accordance with the decision in the case of *Abbott* v. *Davies* (*supra*), then it cannot be brought in again for taxation under any other schedule, for otherwise it would, in effect, be doubly taxed. This, as was very clearly shown in the case of *Salisbury House Estates Ltd.* v. *Fry*, 45 T.L.R. 562, is wrong in principle, for once the profits are caught under Sched. A, they cannot be caught again under any other schedule.

The practical result of this, then, is that by demanding a premium and a smaller rent the landlord is able to thrust part of the owner's burden of tax on to the tenant. This point should be borne in mind when negotiations for a lease are entered into on behalf of a tenant.

Company Law and Practice.

CXLVIII.

THE BORROWING POWERS OF COMPANIES.—I.

IN the case of companies which are desirous of raising further money for the purposes of their businesses, and which are unwilling or unable to raise it by means of the issue of further shares, recourse is most usually had to borrowing in one of the many ways which may be open to them. In reviewing the question of the borrowing transactions of any particular company it is essential, I need hardly say, to see first of all whether the company has power, either express or implied, to borrow. Even if the company has such a power there may be some restrictions imposed by the articles of association on the exercise of the power, and these must be examined in case the purported exercise has been, or the proposed exercise will be, *ultra vires* the directors. Such a case might arise if some limit which has been placed on the amount which the articles authorise the directors to borrow, has been exceeded; or if the directors have secured the loan upon property of the company, or in some other manner not authorised by the articles. It is therefore important to make a careful examination of the memorandum and articles in each case.

It may well be that, although the memorandum is silent on the subject of borrowing powers, there is an implied power to borrow in the company. As to whether this implied power to borrow exists in any particular company the character of the company itself will furnish the key to the answer. In *General Auction Estate Co.* v. *Smith* [1891] 3 Ch. 432, the company was established for the purpose of the sale and purchase of

estates and property, the granting of advances on property intended for sale and certain other objects, but had no express power to borrow money in the memorandum or articles. One of the directors deposited money with the company upon the security of an equitable charge on some realty belonging to it. The company was later wound up, and, in an action by the liquidator to set aside the security as being *ultra vires* the powers of the company, it was held (1) that the company was a trading company and as such had an implied power to borrow money for the purposes of its business; and (2) that the borrowing which had taken place was properly incidental to the business of the company. The test for the validity of a borrowing transaction where the memorandum is silent is, therefore, whether or not the transaction was properly incidental to the course and conduct of the business for its proper purposes. In the case of most trading companies a power to borrow may be implied, but in the case of school boards, scientific societies or literary institutions, to take but a few examples, such a power cannot be implied, and in the absence of an express power to borrow such bodies cannot do so at all. This last statement must, however, be qualified by the observation that powers of borrowing are occasionally conferred upon certain companies by Act of Parliament. An example of this is furnished by the Housing Act, 1925, s. 90 of which authorises the companies, societies and associations therein mentioned to borrow money from the Public Works Loan Commissioners for such purposes as constructing or improving dwelling-houses for the working-classes, or for businesses in connection with which such classes are employed. A provision of a similar nature is also contained in s. 16 of the Town Planning Act, 1925. In general, however, where there is no express power, a company cannot, unless it be a trading company, borrow money, though it may get work done or obtain goods on credit, and such a company can also give to a creditor rights similar to those he would obtain by levying execution on the company's property.

It is not infrequently that one finds an express power to borrow, but a limit placed upon the amount which may be borrowed by the directors without the sanction of a general meeting—up to a named amount, for instance, or up to the amount of the issued capital of the company. Where such a limit is found, there is an implied veto on the directors borrowing to an amount in excess of the limit—a principle for which the well-known case of *Baroness Wenlock* v. *River Dee Coy.*, 36 Ch. D. 675, is the authority. If the directors borrow in excess of the specified limit no debt is created in respect of the amount in excess of the limit, and the securities for that amount are void. The lenders, however, in such circumstances may obtain some relief by relying on the principle that a stranger dealing with a company has a right to assume, as against the company, that all matters of internal arrangement have been duly complied with. This principle, known as the principle of *Royal British Bank* v. *Turquand*, 5 E. & B. 248, is founded on the proposition that outsiders should be expected to know what has been called the external position of the company, but are excused from knowledge of its "indoor management": per Lord Hatherley, in *Mahoney* v. *East Holyford Mining Coy.*, L.R. 7, H.L. 869. So, if the directors have exceeded the limit imposed by the articles, they may be personally liable in damages to the lenders on the ground that they impliedly represented that they had an authority to borrow, which, in fact, they did not have. But it may well be that the act being only *ultra vires* the directors and not *ultra vires* the company, the company may subsequently ratify the transaction, and it will then be valid. If, on the other hand, the borrowing is beyond the powers of the company, i.e., not impliedly or expressly authorised by the memorandum, the loan and all securities which may have been issued for it are entirely void. In that case the lender cannot rely on the principle of *Royal British Bank* v. *Turquand*, because the memorandum, being a record of the external position of the company, should have warned him that there was in fact no power to borrow. So, if a person lends money to a society which has only a limited borrowing power contained in its memorandum, and the effect of his loan is to exceed the limit, he is lending money which the society has no power to borrow, and consequently no debt is created. And supposing the company has an unlimited power to borrow for the purpose of its business, and in fact borrows the money with the knowledge of the lender that it is to be used for some *ultra vires* purpose, the position will again be the same, and no debt will be created. That knowledge of the lender is the criterion of validity in such cases is demonstrated by the decision in *David Payne & Coy. Ltd.* [1904] 2 Ch. 608. In that case K, who was a director of company A, and who was also interested in company B, having found out that company B wished to borrow money which it proposed to employ for a purpose outside the scope of its business, induced company A to lend the money to company B. Company B had a general borrowing power for the purposes of its business. K was the only director of company A who knew how the money was to be applied. On an application by the liquidator in the winding up of company B for a declaration, that the debenture which that company had given as security for the loan was *ultra vires* and void, it was held that K's knowledge of the improper application of the money ought not to be imputed to company A, and that the debenture was a valid security. In *Howard* v. *Patent Ivory Manufacturing Coy.*, 38 Ch. D. 156, where the debenture-holders, who had lent money to the company to an amount over and above that which it was entitled to borrow, were in fact all directors of the company themselves, Kay, J., held that the usual rule making it unnecessary for a lender to see that the internal regulations of the company had been observed did not apply. The debenture-holders, being directors, must be taken to know whether or not such regulations have been properly observed in the transaction.

Although there may, in the case of a particular company, be a power to borrow, either express or implied, with a limit, which has not been exceeded, there still may be restrictions imposed by the memorandum on the mode of security which the company may give for the repayment of the loan, and care must be taken to see that these have been complied with. A general power to borrow, unfettered by restrictions of any kind, confers on the company a right to create mortgages or charges to secure the loan upon all its property of whatever nature, including future property. It should be remembered that future property in this connection will include book debts not yet due, and also uncalled capital, but does not extend to capital which can only be called up in the event of a winding up; nor does it extend to the amount payable in respect of a guarantee where the company is one limited by guarantee. In the *Howard* v. *Patent Ivory Manufacturing Coy.* case the power was to mortgage all or any part of the company's "properties and rights," and it was there held that the power included a right to charge the uncalled capital. But, unless the articles specifically treat the uncalled capital as property which may properly be charged as security, it has been held that it will not be affected by a charge expressed to be on "the property," or on the "property and funds" of the company. The word "property" may include the goodwill of the company, as was held in *Re Leas Hotel Coy.* [1902] 1 Ch. 332, where the charge was upon all the company's "lands, buildings, property, stock-in-trade, furniture, chattels and effects whatsoever, both present and future."

(*To be continued.*)

BRIBERY AND SECRET COMMISSIONS.

Sir David Milne-Watson, D.L., has accepted an invitation to become President of the Bribery and Secret Commissions Prevention League, Incorporated, in succession to the late Lord Inchcape. The first President of the League was Sir Edward Fry, and the second, Lord Inchcape's predecessor, was Lord Lambourne.

A Conveyancer's Diary.

An interesting recent case is *Re Ladd; Henderson* v. *Porter* [1932] W.N. 173.

Lapsed Appointment although Express Declaration against Lapse.

By a settlement made in 1892 on the marriage of Mrs. L. certain funds were settled, in default of issue of her marriage, upon such trusts as she should, notwithstanding coverture, appoint by will, with trusts over in default of appointment.

By her will dated in 1903 Mrs. L. in expressed exercise of that power of appointment and "to the intent that this my will shall take effect whether I survive or predecease my husband" appointed that, in case of such default of issue of her marriage, the settlement funds should at her death be held upon trust to pay her debts and funeral and testamentary expenses and to pay or retain all moneys which had theretofore or might thereafter be paid or advanced out of the corpus of the trust funds at her request, or by her authority, and upon further trust to pay or retain three legacies amounting together to £800 and to pay the ultimate residue to her husband F. L. for his own use and benefit absolutely, and the testatrix appointed H. W. H. executor of her will.

F. L. died in 1929, having by his will made in 1928 given the residue of his estate to L. A. P. and other persons in equal shares, and appointed H. W. H. executor thereof.

In 1911 Mrs. L., who continuously since 1918 had been of unsound mind, died without having had issue.

The question was whether the appointment made by Mrs. L.'s will took effect notwithstanding that her husband predeceased her.

In consequence of the illegitimate birth of Mrs. L., the Attorney-General was made a defendant and, the will of F. L. not having been proved, L. A. P. was appointed to represent his estate.

The point at issue was whether there had been a lapse on account of F. L. having predeceased Mrs. L., or whether the words in the will "to the intent that this my will shall take effect whether I survive my husband or not" were sufficient to avoid a lapse. In the latter case, of course, the husband's estate became entitled to the residue of the appointed funds.

There have been many cases upon this question of lapse or no lapse showing that it is not sufficient that a testator should use language indicating or in fact expressing an intention that there should be no lapse in the event of an object of his bounty predeceasing him, but in order to prevent a lapse he must make a disposition of the property to someone else. It is, however, not always easy to determine, on the construction of a will, whether such a disposition has been made.

One of the most important and frequently cited authorities is *Sibley* v. *Cook* (1747), 3 Atk. 572.

In that case a testatrix's will, so far as material, read: "I give and devise the several legacies and sums following which I will shall be paid to the several persons hereinafter named and that if any of these persons should die before the same become due and payable I will that they or any of them shall not be deemed lapsed legacies"; then she particularises several legacies and, amongst others, "to Ann, the wife of Robert Wensley, and to her executors or administrators I give the sum of fifty pounds."

Ann Wensley died in the lifetime of the testatrix and letters of administration of her estate were granted to her husband.

Lord Hardwicke, C., held that the legacy had not lapsed and decreed payment to the husband.

In the course of his judgment Lord Hardwicke stated the law on the subject as follows: "If a man devises a real estate to J. S. and his heirs and signifies or indicates his intention that if J. S. die before him it should not be a lapsed legacy, yet unless he had nominated another legatee, the heir at law is not excluded, notwithstanding the testator's declaration. So in the devise of a personal legacy to A, though the testator should how an intention that the legacy should not lapse in case A dies before him, yet this is not sufficient to exclude the next of kin."

His lordship then held in effect that the language used in the will was sufficient to constitute a gift to the executors or administrators of Ann.

A much later authority is *Re Greenwood: Greenwood* v. *Sutcliffe* [1912] 1 Ch. 392.

There a testatrix gave her residuary estate to trustees upon trust for conversion, and to divide the proceeds in certain unequal proportions between her brothers B. and J., her niece A, her nephew S., and a number of others, and provided that if any of these four persons, B., J., A. or S. should die in her lifetime without leaving issue living at her death, his or her share should be held in trust for the other beneficiaries. The will proceeded: "I declare that if any of them my said brothers B. and J. my niece A. and my said nephew S. shall die in my lifetime leaving issue and any of such issue shall be living at my death the benefits hereinbefore given to him or her so dying shall not lapse but shall take effect as if his or her death had happened immediately after mine."

J. and S. both predeceased the testatrix, leaving issue who were living at her death.

Parker, J., held that there was no lapse, and the shares of J. and S. passed to their respective personal representatives.

His lordship laid down the principles applicable as follows: "In construing a gift of this nature it must be remembered that the general law does not allow a legatee who predeceases the testator to take any benefit under his will. In that event the gift is said to lapse, with the consequence that it falls into residue or if it is itself a share of residue, goes to the testator's next of kin. It is not competent to a testator to exclude the application of this rule of law, but the consequences of a lapse can be avoided by the substitution of some other legatee to take the legacy if the event which occasions the lapse occurs. Such a substitutionary gift is often introduced by a direction that the legacy is not to lapse, but is to go to the substituted legatee. In such a case the introductory words are of course quite inoperative unless followed by the substitution of another legatee, but if so followed, they are not construed as an attempt to exclude the rule of law as to lapse but as indicating the intention to avoid the consequences which a lapse would otherwise entail by substituting another legatee."

Applying that statement of the law to the facts in that case, his lordship held that there was a good substitutionary gift in favour of the person or persons who would have taken if the deceased legatees had survived the testatrix and died immediately afterwards.

In *Re Ladd*, Clauson, J., came to the conclusion that although there was an expressed intention that there should be no lapse there was not any substitutionary gift which would avoid the consequences of lapse. His lordship said that but for the words prefacing the appointment to the husband, it would be clear that the happening of the event of the husband predeceasing the testatrix would cause a lapse. The question therefore was whether the prefatory words prevented a lapse and made the appointment effectual to constitute the ultimate residue of the settlement funds part of the husband's estate, and he added "even if it might be assumed that the testatrix knew that in the event of her dying childless and her husband predeceasing her, the Crown would become entitled, the presence in the will of the prefatory words was not sufficient, in the absence of a substitution of other legatees, in the event of the husband predeceasing, to show an intention, within the meaning of the authorities, that the husband's estate should take the benefit of the appointed funds and to prevent a lapse in favour of the Crown."

I do not see that any exception can be taken to the decision, but it certainly seems as though the real intention of the testatrix was defeated.

Landlord and Tenant Notebook.

Forfeiture: Notice and Waiver.

The principles governing the validity of forfeiture notices and the question of waiver of forfeiture by acceptance of rent were recently discussed in a case in the Court of Appeal for Northern Ireland which is worth noting, a number of English decisions having been referred to and applied. The reference is *McIlvenny* v. *McKeever* [1931] N.I. 161, C.A.

The facts, in so far as relevant, were that the defendant acquired, in 1920, the term of a 9,997-year lease granted in 1913, the plaintiff being the reversioner. The lease contained tenant's covenants, *inter alia*, to use the premises as a spirit grocery and beer retailer's establishment only, and to apply for and endeavour to procure the requisite licences. Two Northern Ireland statutes passed in 1923 deprived the tenant of the right to obtain those licences. On 3rd April, 1930, the landlord served a forfeiture notice complaining of breaches of four covenants, namely, to insure, to repair, to maintain the premises as a spirit grocery, etc., and to take steps to secure the renewal of the licences. On 1st May he accepted rent. On 6th May he issued the writ claiming possession and damages. On 1st August and on 1st November he accepted further payments of rent.

At the trial nothing was said about disrepair or non-insurance, and this provided the tenant's counsel with his first grievance, in support of which he cited the judgment of Lord Russell, C.J., in *Horsey Estate Ltd.* v. *Steiger* [1899] 2 Q.B. 79, C.A. It is true that in that case the notice had specified two causes of forfeiture, liquidation and breach of a repairing covenant, and that the latter was abandoned at the trial; and that Lord Russell said, *inter alia*: "If the entering into liquidation had alone been put forward, the defendants would have had the opportunity of considering whether they had any answer, and, if not, whether they could make terms with the plaintiffs, but this was impossible so long as the claim for breach of covenant to repair was made"; and that he held that the notice was bad. But a conscientious study of the context reveals, as was demonstrated by Buckley, J., in *Parnell* v. *City of London Brewery Co.* [1900] 1 Ch. 496 (at pp. 502-3), that the real ground of Lord Russell's decision was that the writ had issued two days after the notice, and when he said the notice was bad he meant the proceedings on the notice were bad (no reasonable time having elapsed); and Buckley, J., held in the case before him that failure to prove an alleged breach of a covenant to paint would not prevent the lessor from succeeding on the ground of a breach of covenant to repair. And later, in *Fox* v. *Jolly* [1916] 1 A.C. 1, Lord Buckmaster (p. 15) approved Buckley, J.'s, interpretation, holding that a schedule of dilapidations was not vitiated by a direction to "examine," there being, of course, no such obligation expressed in the covenant. And the Northern Ireland Court of Appeal intimated that if there were a conflict between the judgments of Lord Russell and Buckley, J., they accepted the latter.

The next point related to the particularity with which the breaches were specified, and the case of *Fletcher* v. *Nokes* [1897] 1 Ch. 271—in which "you have broken the covenants for repairing the insides and outside of the houses" was held to be inadequate—was relied upon. Or rather, a certain passage in the judgment of North, J. (p. 274), was relied upon. That judgment, while generally commended, has been criticised as attempting to lay down a standard where no standard can be laid down, e.g., the proposition that the tenant must be told with reasonable certainty "what it is which he is required to do" is capable of being misunderstood, for a tenant whose attention is directed to an omission to paint knows he must paint, and a tenant whose attention is directed to a leaky roof is not to be told how to repair it; but subject to this, the judgment was approved in *Fox* v. *Jolly*, *supra*, and in the case before them the Northern Ireland Court of Appeal considered the complaint groundless.

The old question of waiver by acceptance of rent was examined with great thoroughness by the Northern Ireland Lord Chief Justice, who found that two exceptions which qualify the main principle both applied in the case before him. The first was that by which the issue of a writ is deemed to be an irrevocable election, and here two fairly recent English decisions were in point. In *Evans* v. *Enever* [1920] 2 K.B. 315, the lease contained provisos for re-entry in the event of bankruptcy and on non-payment of rent. The tenant having, to the landlords' knowledge, been adjudicated a bankrupt, they did nothing till two quarters' rent had accrued due, and they then issued a specially endorsed writ, which could and did only complain of non-payment of rent. The tenant disposed of this action by paying the rent and costs, and the lessors then issued an ordinary writ (after notice) claiming possession on the ground of the bankruptcy. It was pointed out that though rent had been received since and with knowledge of the bankruptcy, the circumstances were such that there was no waiver; it was received in an action not brought for rent but for possession. In *Civil Service Co-operative Society Ltd.* v. *McGrigor's Trustee* [1923] 2 Ch. 347, the principle was perhaps carried a little further; a forfeiture notice, and then a writ, were issued on the ground of bankruptcy, and a month later a demand for a quarter's rent (part of the quarter being before, and part after, the writ) was made and satisfied; but it was held that no subsequent acts of the landlord could qualify the irrevocable election expressed by the issue of a writ for possession.

The other exception which was an obstacle to the defendant in the Northern Ireland case, is that which relates to continuing breaches. The leading English example is *Penton* v. *Barnett* [1898] 1 Q.B. 276, C.A. In this the tenant, having failed to comply in time with a notice to repair within three months in accordance with one covenant, was sued for a quarter's rent which fell due just after the three months had elapsed, and for possession on the ground of breach of a general repairing covenant, and on appeal it was held that the lessor could rely on the disrepair in which the premises had been between the quarter-day and the issue of the writ.

Our County Court Letter.

WIVES' CLAIMS TO HUSBANDS' ASSETS.

In the recent case of *In re Dennis* at Oxford County Court, the trustee claimed a declaration that certain transfers to the bankrupt's wife were fraudulent and void as regards the following properties, viz.: fifty Lever Brothers 7 per cent. cumulative preference shares; £200 5 per cent. War Stock; £124 5s. 4d. Consols; a bank balance of £381 2s. 4d.; a gravel pit at Old Marston, and a house at Westcott. The applicant's case was that (1) having been sued for trespass and nuisance in November, 1930, the bankrupt had divested himself of the Old Marston and Westcott properties (by conveying them to his wife) on the 10th December, 1930; (2) his bank balance was transferred to his wife on the 5th February, 1931; (3) the transfers of securities had been described to the brokers (for stamping) as a gift; (4) the receiving order was made in June, 1931, when the liabilities were returned at £778, with assets nil; (5) nevertheless the bankrupt had sworn an affidavit (in action at Oxford Assizes in 1931) that he was the owner and occupier of the Old Marston land; (6) he was still carrying on the gravel business, and paying the money into his wife's account. The wife's evidence was that (*a*) on her marriage in 1911, she had £200; (*b*) having bought two horses and carts she carried on a carriers' business until 1925, when the properties were bought on her behalf by her husband; (*c*) she had always traded in her husband's (not her own)

name, and thought it immaterial that the properties and bank account were in the name of her husband (instead of herself) especially as (*d*) she had always drawn on the account in her own name. In a reserved judgment, His Honour Judge Randolph, K.C., observed that, although the wife helped in the carrier's business, this belonged to the husband. The money in the bank was his, and the properties were bought with his money, and it was therefore held that the conveyances and transfers to the wife (being made with intent to defraud creditors) were fraudulent and void against the trustee. The requisite declarations were, therefore, made, with costs out of the estate, and it was intimated that, if the wife refused to execute the reconveyances—someone else would be appointed to do so, under the Trustee Act, 1925, Section 50. For prior references under the above title, see our issue of the 30th July, 1932 (76 Sol. J. 541), and compare the note entitled "The Constituents of Fraudulent Preference" in our issue of the 9th July, 1932 (76 Sol. J. 489).

THE RIGHTS OF SERVANTS AS BENEFICIARIES.

In the recent case of *Allison* v. *Chamberlayne*, at Warwick County Court, the claim was for £78, as the amount due to the plaintiff under a will, whereby the testator had left a year's wages to all servants who had been in his employ for ten years. The plaintiff's case was that (1) she was employed as a laundress in June, 1918, by the testator's wife at a weekly wage of 30s.; (2) although her wages were paid by the wife of the testator, the latter was the plaintiff's actual employer for thirteen years. The case for the defendant (the widow and executrix of the testator) was that (*a*) the plaintiff was not a servant, as she was a contractor for the laundry work, which she did in her own time: (*b*) the plaintiff was paid out of the defendant's private income until 1929, after which date the testator himself paid for the laundry; (*c*) even if the plaintiff was a servant, she was only employed by the defendant personally, and had no claim as a legatee under the will of the testator. His Honour Judge Drucquer observed that the plaintiff's wages were a legal liability of the testator, and the fact that they were paid by the testator's wife did not make the plaintiff her servant. The plaintiff was therefore not only employed by the testator himself, but the circumstances of the employment were such as to bring her within the definition of a domestic servant. Judgment was therefore given for the plaintiff, with costs.

Reviews.

The Law of Arbitration and Awards. By Horace S. Palmer, M.A. (Oxon), of the Inner Temple, Barrister-at-Law. 1932. Demy 8vo. pp. xx and (with Index) 160. London: Sir Isaac Pitman & Sons, Ltd. 6s. net.

This is essentially a book for students, but may well find a place in the business man's library. It covers the ground of the law of arbitration and awards in sufficient detail to meet the requirements of students who are sitting for the examinations of the Institute of Chartered Accountants, the Society of Incorporated Accountants and Auditors, and similar examining bodies. An appendix to the volume sets out the text of the Arbitration Act, 1889, and various other statutes, including the Arbitration (Foreign Awards) Act, 1930, and rules applicable to the subject.

The Law of Gaming and Betting. By C. F. Shoolbred, B.A., LL.B., of the Middle Temple, Barrister-at-Law. With a foreword by The Hon. Mr. Justice McCardie. 1932. Demy 8vo. pp. xxix and (with Index) 244. London: Sir Isaac Pitman & Sons, Ltd. 10s. 6d. net.

The author of this quite admirable little volume is fortunate in securing the approval of the learned judge whose foreword is of itself a sufficient testimony to the work. As Mr. Justice McCardie points out, it is nearly twenty years since the publication of a work on the subject, and there have been many decisions and several statutes in the meantime calling for careful notice. The statutes, in the learned judge's view, are the result of uncertainty, of timidity, and of compromise. This has led to obscurity in many of the decisions. The present law, moreover, is a patchwork of inconsistency which too often gives rise to vigorous criticism and frequent resentment. The whole subject, he thinks, should be reconsidered by Parliament. That being the case the task of writing a satisfactory legal text-book on these subjects is by no means an easy one; and the author of the volume before us is to be congratulated upon having produced as clear and comprehensive an exposition as could be desired. The book is likely to find an extensive circulation in the legal profession and elsewhere.

Topham's New Law of Property. Fourth Edition, being the Seventh Edition of *Topham's Real Property.* By Alfred F. Topham, LL.M., of Lincoln's Inn, one of His Majesty's Counsel. 1932. Demy 8vo. pp. xxxviii and (with Index) 501. London: Butterworth & Co. (Publishers), Ltd. 15s. net.

The appearance of a fourth edition of this well-known volume shows the extent to which it has already been appreciated by the legal profession. For the law student Mr. Topham's work is, of course, indispensable. Real property is recognised as the most difficult of all subjects facing the law student, since it is necessary for him to graft the provisions of the new law upon those of the old. Some six years have passed since the Statutes of 1925 were promulgated, and members of the legal profession are now becoming familiar with the provisions of the new law. Mr. Topham's book, however, will still continue to rank as a handy book of reference not overburdened with detail, and specially convenient for reference inasmuch as the clear distinction between the old and the new is indicated by the use of distinctive type. The present edition contains the new code of rules governing contract known as the Statutory Form of Conditions of Sale, 1925. These conditions apply to contracts for the sale of land by correspondence subject to any modification or variation expressed in the correspondence.

Books Received.

Reports of Company Cases. Edited by A. N. Aiyar, B.A., B.L., Vakil, High Court of Judicature, Madras. August, 1932. Vol. II—Pt. VIII. pp. 363-410. Lahore: The Company Cases. Subscription, Rs.12 per annum. (Foreign, £1).

The Journal of Comparative Legislation and International Law. Third Series. Vol. XIV—Pt. III. August, 1932. Edited by F. P. Walton, LL.D., K.C. (Quebec). Medium 8vo. pp. xxviii and 135-203 (with Index). London: Society of Comparative Legislation. Annual Subscription, £1 1s.

Contested Documents and Forgeries. By F. Brewester, Document Specialist. Introduction by Sir N. N. Sircar, Kt., Barrister-at-Law, Advocate-General, Bengal. 1932. Royal 8vo. pp. xxvii and (with Index) 533. Calcutta: The Book Company, Ltd. Rs.16/8.

The Hire Purchase and Small Debt (Scotland) Act, 1932. By Thomas Trotter, B.L., D.L., Advocate. 1932. Demy 8vo. pp. (with Index) 95. Edinburgh and Glasgow: William Hodge & Company, Ltd. 5s. net.

[All books acknowledged or reviewed can be obtained through The Solicitors' Law Stationery Society, Limited, London and Liverpool.]

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Liability for Defective Carpet.

Q. 2574. My client goes into a furniture shop for a carpet and is shown one in a dark room with only one poor light which is stated to be 3 yards by 4 yards Axminster. The salesman can only show him a corner of it, which they approve and buy the carpet and pay for it and get a receipt. On delivery it is found that in that part of the carpet which they have not already seen there are defects. The carpet was bought as a new one. Either the moth has got to it or it is badly made, because on the slightest touch the wool portion comes off leaving the bare canvas below. A card attached to the carpet states "Nepal—size 3 x 4—foreign—N. & Co. Ltd. G." There was a lot of telephoning and correspondence with the shop, and the net result is that the vendor refuses to take back the carpet unless they either buy another or spend the value in other goods. Would you kindly say if in your opinion the client would be able to recover the value paid for the defective new carpet either on warranty or otherwise ?

A. As delivery has been taken of the carpet, a return of the money cannot be claimed on the ground of failure of consideration, as the carpet has some value—however slight. The case is therefore one in which damages could be claimed for fraudulent misrepresentation—were it not for the statement that "the vendor refuses to take back the carpet, unless they either buy another or spend the value in other goods." This apparently means that the vendor admits the defect, and has offered to replace the carpet by another. In that event the proposed plaintiff will have suffered no damage, and the offer should therefore be accepted—provided the phrase "buy another" does not involve the expenditure of a further sum by the buyer. The latter is entitled to be placed in as good a position as if he had been supplied with an "Axminster," and—even if the receipt does not describe the carpet as "Axminster"—there is apparently corroboration of the buyer's version. The phrase "which *they* approve" implies that he was accompanied by a witness, so that the evidence will not consist merely of one oath against another. The evidence as to the interview with the salesman, and the condition of the carpet when delivered, shows a *primâ facie* case for damages, but the amount of the latter may be reduced to a nominal figure—in view of the apparent willingness of the vendor to settle. The case is therefore one for further negotiation, and proceedings should not be started until the quality of the carpet offered in substitution has been ascertained.

Rent Restrictions Act—Sub-Tenant.

Q. 2575. A is the owner of freehold property which was let to B before the war, and of which the controlled rent is 14s. 8d. per week. In 1926 B, for the first time, sub-let the lower portion of the premises to a tenant paying 16s. per week. After eight months this sub-tenant vacated the premises and the same accommodation was let to C at the same rent. C recently made an application to the court for reduction of his rent, which was fixed at 10s. 5d., and the over-payments of arrears and costs were to be paid by B allowing C to reside rent free at the rate of 10s. 5d. per week until the judgment debt was satisfied. The debt is not yet satisfied, and B has now vacated the premises leaving one month's arrears of rent owing to A.

(1) Can A obtain possession from the sub-tenant C ?

(2) If not, is A bound to accept from C the rent of 10s. 5d. fixed by the court ?

(3) Can C claim to set off the balance of the judgment debt as against A ?

A. (1) Not unless B was by the terms of his agreement prohibited from sub-letting and A has done nothing to recognise the sub-tenancy (*Roe* v. *Russell* [1928] 2 K.B. 117).

(2) Yes, unless he is prepared on another application to the court to show that the amount is incorrect. It is not even quite clear that A can go to the court again.

(3) No. We think it is quite clear from s. 14 of the Act of 1920 that the landlord there referred to is the person who let and does not include his successors in title.

Mortgage of Leaseholds—Effect of Deposit with Mortgagees of Title Deeds relative to the Freehold Reversion Subsequently Acquired by Mortgagors.

Q. 2576. A and B purchased certain leasehold premises as joint tenants and afterwards executed a declaration to the effect that they stood possessed of the said premises as trustees of a club. They later mortgaged the premises to secure certain moneys advanced to and for the benefit of the club. The freehold of the premises was subsequently acquired by the club and the conveyance was made in the names of the trustees then acting, who were different persons to those named in the earlier documents. The conveyance was handed to the mortgagee to be placed with the other deeds. Can the acquisition of the freehold interest be taken to be an accretion for the benefit of the mortgagee, and if so, will the mortgagee be in order in offering the property for sale as freehold premises ?

A. We do not think so. At the most the deposit with the mortgagee of the title deeds relative to the freehold reversion would, in our opinion, amount to an equitable mortgage by way of collateral security of that reversion, and the mortgagee would not be in a position to sell the freehold.

Covenant to Devise—Failure to observe Covenant—Performance—Succession Duty.

Q. 2577. A, by written agreement with B, covenanted to devise a house (in which she resided) to B by her will, in part return for nursing, housekeeping and other services rendered to her by B. A, in a codicil to her will, referred to this covenant, but omitted the operative part necessary to make a valid devise to B of the house. On the death of A this year probate was obtained of her will and codicils, and the executors (admitting B's equitable right to the property) have sold the house for B to B's nominee. The executors sold as personal representatives of A. Does legacy or succession duty attach to B's benefit, i.e., the purchase price made on the sale of the house ?

A. We have not been able to trace any authority bearing directly upon this point, but we express the opinion that succession duty is payable. The covenant was "to devise," that is to say, to give by will ; and, as it is binding, B is entitled to be put in the same position as she would have been had the agreement been performed, namely, to take the property with and subject to the incidents common to specifically devised real estate, one of which is the liability to succession duty. The liability to duty is not affected by the motives or obligations underlying a gift.

In Lighter Vein.

THE WEEK'S ANNIVERSARY.

Mr. Justice Willoughby died on the 29th September, 1545, and was buried at Chiddingstone, in Kent, where he had been lucky enough to acquire the estate of Bore Place through his marriage with the daughter of Lord Chief Justice Read. A descendant of an illustrious line, his choice of the law as a career was dictated by the fact that he was a younger son. In an age of troubles, upheavals and insecurity of life and property he seems to have practised the art of letting trouble miss him. He became Serjeant in 1521, King's Serjeant in 1530, knight in 1534 and Justice of the Common Pleas in 1537.

STENTORIAN ADVOCACY.

The new and improved Shoreditch County Court falls short in respect of audibility, the main essential of a court of justice. Such was the effect of traffic noises recently that His Honour Judge Cluer exhorted counsel to remember Stentor (the Homeric captain who had the voice of fifty men shouting) and to speak loudly. Thus perhaps a Shoreditch school of advocacy may arise to replace the now extinct Old Bailey Bellows School which apparently held that verdicts were wrested from juries and burglars restored to their friends and their relations by sheer lung and throat power. The famous Montagu Williams was an eminent exponent of the art. He put such a strain on his poor voice that eventually, after a serious operation, he lost it altogether for forensic purposes and became a magistrate. Warner Sleigh followed the same uproarious tradition. Once at the Middlesex Sessions the proceedings were interrupted by a terrible disturbance as if a riot had broken out in the vicinity. Sir Peter Edlin, the presiding judge, sent the usher out to investigate. After a few anxious moments, everyone was reassured by the news that it was "only Mr. Warner Sleigh addressing the jury in the next court." Lord Ashbourne, a former Lord Chancellor of Ireland, used also to exploit the power of his vocal chords. It is said that while he was Attorney-General his speeches in the House of Commons could be heard with much greater comfort in the Lords at a distance.

PULPITS AND THE BAR.

On the occasion of the great Methodist reunion, Sir Robert Perks, vice-president of the New Church, has recalled the names of some of the notable lay-preachers working for it, among them Mr. Norman Birkett. Such service is not unique among lawyers. The first Mr. Justice Lush and Mr. Justice Bailhache also preached. So did Judge Waddy, of whom an absurd story is told in connection with a visit paid to his chapel by Sir Frank Lockwood. Waddy in the middle of his sermon noticed the acknowledged jester of the Bar among the congregation. With remarkable presence of mind, he thereupon wound up his discourse, and announced: "We will now, my dear brethren, sing the Hundredth Psalm, after which our brother Lockwood will address you in prayer." No ultimatum could have acted more effectively as a notice to quit. Before the five verses of that short psalm were done, Lockwood had departed. It is only fair to add that both parties to the alleged incident always strenuously repudiated it. It was said, perhaps a little unjustly, that whenever members of Waddy's chapel happened to be on a jury they always gave him the verdict.

SHADES OF VERACITY.

During the recent bottle party case, counsel for the defence, in dealing with the police evidence, said, "I do not suggest that the whole of the evidence for the defence is false, but there was exaggeration." The same suggestion has many forms of expression, but was never more neatly put than by the witness who, on being asked whether he was prepared to say that the constable was a liar, replied: "No, I won't exactly say the constable is a liar, but I don't mind sayin' 'e's 'andled the truth very carelessly."

Obituary.

MR. J. DE VILLIERS.

The Right Hon. Jacob de Villiers, Chief Justice of South Africa, died on Friday, the 16th September, in a London nursing home, at the age of sixty-three. He was called to the Bar by the Middle Temple in 1893, and in 1914 he was appointed a judge of the Appellate Division at Bloemfontein. He was appointed Chief Justice of South Africa in 1930, being sworn of the Privy Council in the same year.

MR. JUSTICE HODGINS.

The Hon. Mr. Justice Hodgins, a member of the Court of Appeal for Ontario, died at Toronto, on Sunday, the 18th September, at the age of seventy-eight. Mr. Frank Egerton Hodgins was called to the Ontario Bar in 1879 and took silk in 1902. He was president of the Ontario Bar Association in 1908–9, and in 1912 he was elected a bencher of The Law Society of Upper Canada, being made a judge of the Ontario Court of Appeal in the same year.

MR. C. E. JONES.

Mr. Charles Edward Jones, the oldest practising barrister on the South-Eastern Circuit, died on Tuesday, the 20th September, at his residence at Colchester, at the age of seventy-nine. Mr. Jones was educated at Felsted School and was called to the Bar by the Inner Temple in 1874. He had been Recorder of Maldon and Saffron Walden since 1911.

MR. R. W. RYLANDS.

Mr. Richard Walter Rylands, solicitor, of Manchester, died on Monday, the 19th September, at the age of seventy-three. Mr. Rylands was admitted a solicitor in 1887, and for thirty-one years was a partner in the firm of Messrs. Boote, Edgar and Rylands, of Manchester, until his retirement in 1931. He was a past-president of the Manchester Law Society.

MR. R. S. WOOD.

Mr. Robert Samuel Wood, solicitor, of High Wycombe, Buckinghamshire, died at his home there on Saturday, the 17th September, at the age of seventy-five. Mr. Wood, who was admitted a solicitor in 1887, was senior partner in the firm of Messrs. R. S. Wood & Co., of High Wycombe. He was Mayor of High Wycombe in 1907, and was an alderman until 1928.

MR. R. H. HODGSON.

Mr. Robert Hunter Hodgson, solicitor, a member of the firm of Messrs. Maxwell, Hodgson & Co., solicitors, of Glasgow, died at his home at Lenzie, on Sunday, the 4th September. He had been in partnership with Mr. John Maxwell for about twenty years.

MR. W. P. HARDING.

We regret to announce the death at Hastings, on the 10th September, of Mr. W. P. Harding, O.B.E., at one time Assistant Editor and Manager of THE SOLICITORS' JOURNAL.

BURNLEY BUILDING SOCIETY.

The Burnley Building Society has decided to reduce its basic rate of interest on mortgage loans to 5 per cent. This rate will apply to *new* mortgage loans granted to owner-occupiers or prospective owner-occupiers of dwelling-houses situated in Lancashire and Cheshire.

The flat rate payment per calendar month for each £100 borrowed, for twenty years, will be 13s. 4d. The standard rate in respect of new mortgage loans granted to owner-occupiers or prospective owner-occupiers of dwelling-houses situated in the United Kingdom outside Lancashire and Cheshire will be 5½ per cent.

The present reduction in mortgage interest has been made possible by general financial conditions, though it is impossible as yet to forecast whether these will remain permanent. It is understood that if the present position continues the Society hopes in the near future to extend the benefit of the reduction in interest to its existing borrowers who are not in arrear on their mortgage accounts.

Societies.

The Law Society's School of Law.

The Autumn Term will open on 28th September. Lectures will commence on 3rd October. Copies of the detailed Time-Table can be obtained on application to the Principal's Secretary.

The Principal (Mr. G. R. Y. Radcliffe) will be in his room to advise students on their work on Wednesday, 28th September (students whose surnames commence with the letters A–K), and Thursday, 29th September (students whose surnames commence with the letters L–Z), from 10.30 a.m. to 12.30 p.m. and from 2 p.m. to 5 p.m.

The subjects to be dealt with during the Term will be, for Intermediate students (i) Public Law, (ii) The Law of Property in Land, (iii) Contract and Tort, and (iv) Trust Accounts. The subjects for Final students will be (i) Bankruptcy and Company Law, (ii) The Law of Property, and (iii) General Principles of Contract. There will also be courses on (i) Equity, and (ii) Tort, for Honours and Final LL.B. students, and on (i) The English Legal System, and (ii) Roman Law, for Intermediate Degree students.

Intermediate students must notify the Principal's Secretary before 29th September on the entry form whether they wish to take morning or afternoon classes.

Students can obtain copies of the Regulations governing the three Studentships of £40 a year each, offered by the Council for award in July, 1933, on application to the Principal's Secretary.

Legal Notes and News.

Honours and Appointments.

Mr. Justice OSWALD S. CROCKET, of the Supreme Court of New Brunswick, has been appointed a Judge of the Supreme Court of Canada, *vice* the late Justice Newcombe. Mr. Justice J. N. TELLIER, of the King's Bench Division, Quebec, has been appointed Chief Justice of this Division, *vice* Chief Justice Lafontaine, who has resigned because of ill-health, and Mr. J. L. ST. JACQUES, K.C., Montreal, has been appointed a Judge of the King's Bench Division, Quebec, in place of Mr. Justice Tellier.

The Board of Inland Revenue have appointed Mr. ERNEST ARTHUR EBORALL, C.B.E., to be H.M. Chief Inspector of Stamps and Taxes, in succession to Sir Edward Richard Harrison, who is retiring from the public service.

Mr. T. HODGKINSON, Deputy Librarian, has been appointed Librarian to the Honourable Society of Lincoln's Inn in succession to Mr. W. F. Chas. Suter who is resigning the post at the end of this month after fifty-four years' service in the Library.

Professional Announcement.

(2s. per line.)

THE SOLICITORS' MORTGAGE SOCIETY, LTD. (formed by Solicitors for Solicitors), invites particulars of FUNDS or SECURITIES. Apply, The Secretary, 20, Buckingham-street, Strand, W.C.2. Telephone No. Temple Bar 1777.

VACATION JUDGE'S SITTINGS.

It is announced that Mr. Justice Lawrence will sit in the Lord Chancellor's Court at 11 o'clock on Tuesday, 27th September, instead of Wednesday, 28th September, for the purpose of hearing applications "which may require to be immediately or promptly heard" as, according to the practice in the Chancery Division, are usually heard in court. His Lordship will sit for the disposal of King's Bench business in Judge's Chambers at 11 o'clock on Monday, 26th September, instead of Tuesday, the 27th.

STOCK EXCHANGE COMMISSION.

The Stock Exchange Committee has rejected the proposals made by an influential group of stockbrokers that the commission payable to banks and other agents should be reduced. The committee adheres to its original decision to limit the proportion allowed to agents other than banks to 33⅓ per cent. instead of 50 per cent. as at present. The banks will continue to retain half the gross commission.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement Thursday, 6th October, 1932.

	Middle Price 21 Sept. 1932.	Flat Interest Yield.			†Approximate Yield with redemption		
English Government Securities.		£	s.	d.	£	s.	d.
Consols 4% 1957 or after	107½	3	14	5	3	10	7
Consols 2½%	73	3	8	6	—		
War Loan 5% 1929-47 Assented	100½xb	3	10	2	—		
**War Loan 4½% 1925-45	102	—			—		
Funding 4% Loan 1960-90	110	3	12	9	3	8	11
Victory 4% Loan (Available for Estate Duty at par) Average life 31 years	107½	3	14	5	3	11	10
Conversion 5% Loan 1944-64	117	4	5	6	3	5	4
Conversion 4½% Loan 1940-44	110½	4	1	5	3	0	2
Conversion 3½% Loan 1961 or after	99	3	10	8	—		
Local Loans 3% Stock 1912 or after	86	3	9	9	—		
Bank Stock	315	3	16	2	—		
India 4½% 1950-55	103	4	7	5	4	5	2
India 3½% 1931 or after	82	4	5	4	—		
India 3% 1948 or after	70	4	5	9	—		
Sudan 4½% 1939-73	106	4	4	11	3	9	1
Sudan 4% 1974 Redeemable in part after 1950	105	3	16	2	3	12	4
Transvaal Government 3% Guaranteed 1923-53 Average life 13 years	100	3	0	0	3	0	0
Colonial Securities.							
Canada 3% 1938	99	3	0	7	3	3	11
*Cape of Good Hope 4% 1916-36	100xd	4	0	0	4	0	0
Cape of Good Hope 3½% 1929-49	98	3	11	5	3	13	2
Ceylon 5% 1960-70	110	4	10	11	4	7	2
*Commonwealth of Australia 5% 1945-75	103	4	17	1	4	13	9
Gold Coast 4½% 1956	106	4	4	11	4	1	10
*Jamaica 4½% 1941-71	102xd	4	8	3	4	4	2
*Natal 4% 1937	100	4	0	0	4	0	0
New South Wales 4½% 1935-45	98	4	11	10	4	14	2
*New South Wales 5% 1945-65	101	4	19	0	4	17	10
*New Zealand 4½% 1945	102	4	8	3	4	5	6
*New Zealand 5% 1946	106	4	14	4	4	7	9
Nigeria 5% 1950-60	112	4	9	3	4	0	2
*Queensland 5% 1940-60	100	5	0	0	5	0	0
*South Africa 5% 1945-75	109	4	11	9	4	1	10
*South Australia 5% 1945-75	102	4	18	0	4	15	9
*Tasmania 5% 1945-75	103	4	17	1	4	13	9
*Victoria 5% 1945-75	102	4	18	0	4	15	9
*West Australia 5% 1945-75	102	4	18	0	4	15	9
Corporation Stocks.							
Birmingham 3% 1947 or after	83½	3	11	10	—		
*Birmingham 5% 1946-56	111	4	10	1	3	19	3
*Cardiff 5% 1945-65	108	4	12	7	4	3	9
Croydon 3% 1940-60	92	3	5	3	3	9	0
*Hastings 5% 1947-67	111½	4	9	8	3	19	4
Hull 3½% 1925-55	97½	3	11	10	3	13	4
Liverpool 3½% Redeemable by agreement with holders or by purchase	96	3	12	11	—		
London County 2½% Consolidated Stock after 1920 at option of Corporation	71	3	10	5	—		
London County 3% Consolidated Stock after 1920 at option of Corporation	85	3	10	7	—		
Manchester 3% 1941 or after	83½	3	11	10	—		
Metropolitan Water Board 3% "A" 1963-2003	85	3	10	7	3	11	8
Do. do. 3% "B" 1934-2003	86	3	9	9	3	10	9
*Middlesex C.C. 3½% 1927-47	99	3	10	8	3	11	10
Do. do. 4½% 1950-70	110	4	1	10	3	14	6
Nottingham 3% Irredeemable	83½	3	11	10	—		
*Stockton 5% 1946-66	109½	4	11	4	4	1	10
English Railway Prior Charges.							
Gt. Western Rly. 4% Debenture	98½	4	1	3	—		
Gt. Western Rly. 5% Rent Charge	111½	4	9	8	—		
Gt. Western Rly. 5% Preference	74½	6	14	3	—		
L. Mid. & Scot. Rly. 4% Debenture	89½	4	9	5	—		
L. Mid. & Scot. Rly. 4% Guaranteed	73½	5	8	10	—		
Southern Rly. 4% Debenture	93½	4	5	7	—		
Southern Rly. 5% Guaranteed	100½	4	19	6	—		
Southern Rly. 5% Preference	62½	8	0	0	—		
‡L. & N.E. Rly. 4% Debenture	82½	4	17	0	—		
‡L. & N.E. Rly. 4% 1st Guaranteed	61½	6	10	1	—		

*Not available to Trustees over par.

†In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other stocks, as at the latest date.

‡These Stocks are no longer available for trustees, either as strict Trustee or Chancery Stocks, no dividend having been paid on the Company's Ordinary Stocks for the past year.

**To be repaid at par on 1st December, 1932.